

IN THE HIGH COURT OF JUDICATURE FOR RAJASHTAN,
JAIPUR BENCH, JAIPUR.

S.B. Civil Misc. Appeal No.678/2006
Kumari Apurva Sharma & Anr.

V/s

District & Sessions Judge, Jaipur City, Jaipur

Date of Judgment : 21st August, 2006

HON'BLE MR. JUSTICE R.S. CHAUHAN

Reportable

Mr. S.L. Sharma, present in person.

The appellants, who are minors, have challenged the Orders dated 7.11.2005 and 10.1.2006 passed by the District & Sessions Judge, Jaipur City, Jaipur through their maternal grandfather, their guardian.

The brief facts of the case are that the appellants were traveling with their parents on 12.7.1996 in a Maruti Car from Jaipur to Delhi. At around 1.30 A.M., in the intervening night of 12th/13th July, 1996, the car met with a devastating accident wherein the driver and the appellant's parents expired on the spot. Subsequently, the maternal grandfather was appointed as a guardian vide Order dated 7.11.2005. The present bone of contention seems to be the amount of terminal benefits to be paid by the Indian Bank to the appellant's father and the amount of Group Insurance Policy to be paid to the appellants. Since the Indian Bank, as the employer of their father, did not pay the correct amount, the appellants had filed a writ petition before this Court, registered as S.B. Civil Writ Petition

No.1408/2000. Vide Order dated 2.8.2002 this Court had passed certain directions both to the Bank as well as to the learned District Judge: this Court had directed the learned District Judge to re-calculate the amount payable to the appellants and to issue necessary directions to the Indian Bank and the New India Assurance Company Ltd. to deposit the amount in FDR. Since the New India Assurance Company Ltd. was aggrieved by the said order, it had filed an appeal before the Division Bench of this court. However, the Learned Division Bench was pleased to dismiss the said appeal. Therefore, the directions issued by the learned Single Judge reached finality. The appellants' present grievance is that instead of implementing the directions issued by this Court, vide Orders dated 7.11.2005 and 10.1.2006, the learned District Judge has rejected their application for re-calculating the amount and for issuing necessary directions to the Indian Bank and to the New India Assurance Company Ltd.

Mr. S.L. Sharma, the appellants' guardian, has appeared in person before this Court and has strenuously argued that the learned District Judge was legally bound to carry out the directions issued by this Court. But the learned Judge has failed to do so. He also brought to the notice of this Court that he had filed a contempt petition, which is tagged with the present file.

We have heard the learned counsel for the appellants and perused the impugned orders as well as Order dated 2.8.02 passed by this Court.

It is, indeed, unfortunate that the minor children have lost their parents at such a young age. Instead of comforting these children, instead of securing financial condition of the children, they are being forced to run from pillar to post trying to realize the money, which is rightfully their. This is certainly a painful situation where despite the clear-cut directions of this Court, the children still have not been paid their rightful dues despite the lapse of four years. Merely because, the learned District Judge has appointed a guardian, he could not ignore the directions of this Court for recalculating the amount due to the children and for issuing necessary directions to the Indian Bank and to the New India Assurance Company Ltd. The learned District Judge is bound to carry out the directions of this Court. His omission for carrying out the directions of this Court has deprived the children of their rightful dues for more than four years. When the judiciary is dealing with the interest of the minors, the interest of the women, the interest of the minority, the interest of the exploited segment of the society, it is expected that the judiciary would show a heightened sense of sensitivity to the plight of these people. The judiciary has always been viewed as the arch-angel of the people. This role is most essential

while dealing with the interest of weaker segment of the society. It may be that the learned District Judge has overlooked the directions of this Court in his busy schedule of work, but being an experienced judicial officer of many years of standing and being head of the subordinate judiciaries, it is expected that he would implement the directions of this Court as soon as possible.

Therefore, this court allows the appeal, quashes and sets aside the orders dated 7.11.2005 and 10.1.2006. The learned District Judge is directed to implement the judgment of this Court dated 2.8.2002 within a period of one month from the date of receipt of a certified copy of this order.

Since this court does not find any case for contempt of this Court, the notices of the contempt petition are discharged.

(R.S. CHAUHAN)J.

/S.S./